

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S CODE OF ORDINANCES, CHAPTER 34 (ENVIRONMENT), ARTICLE III (HAZARDOUS MATERIALS) AND REPEALING ORDINANCE NO. 02-09-105; ESTABLISHING RULES AND REGULATIONS REGARDING HAZARDOUS MATERIALS; PROVIDING THAT ANY INDIVIDUAL OR BUSINESS ENTITY INVOLVED IN, RESPONSIBLE FOR OR IN ANY MANNER CONNECTED WITH AN INCIDENT INVOLVING HAZARDOUS MATERIAL(S) SHALL BE LIABLE FOR COSTS INCURRED BY THE CITY OF FRISCO AS A RESULT OF THAT INCIDENT; ESTABLISHING PERMIT FEES FOR THE STORAGE, HANDLING OR USE OF HAZARDOUS MATERIAL(S); PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Council of the City of Frisco, Texas, (the "City Council") has investigated and determined that Chapter 34 (Environment), Article III (Hazardous Materials) of Frisco's Code of Ordinances should be amended as set forth below; and

WHEREAS, the City Council has further investigated and determined that Ordinance No. 02-09-105 should be repealed and replaced in its entirety by this Ordinance; and

WHEREAS, the City Council has further investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco ("Frisco") to establish rules and regulations regarding hazardous material(s); and

WHEREAS, the Frisco Fire Department is authorized to identify, control and clean up hazardous material(s) incidents and coordinate the assistance of other departments and agencies as might be necessary; and

WHEREAS, the Frisco Fire Department is authorized to inspect facilities to ensure compliance with regulations governing the storage, use and handling of hazardous material(s); and

WHEREAS, the City Council has determined that it is necessary and proper to establish fees to be charged for certain services, and to establish permit fees for the storage, handling and use of hazardous material(s); and

WHEREAS, the City Council has further investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to establish the ability to recover expenses incurred as a result of an incident involving hazardous material(s).

WHEREAS, Frisco has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous and beneficial and in the best interest of the citizens of Frisco to amend Chapter 34 (Environment), Article III (Hazardous Materials) of Frisco's Code of Ordinances and repeal Ordinance No. 02-09-105 as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Repeal of Ordinance No. 02-09-105. Ordinance No. 02-09-105 is hereby repealed in its entirety and replaced by this Ordinance. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance, at which time Ordinance No. 02-09-105 shall be repealed. Such repeal shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of Ordinance No. 02-09-105 occurring before the effective date of this Ordinance.

SECTION 2: Amendment to Chapter 34 (Environment), Article III (Hazardous Materials) of Frisco's Code of Ordinances. Chapter 34 (Environment), Article III (Hazardous Materials) of Frisco's Code of Ordinances is hereby amended to read as follows:

"ARTICLE III. HAZARDOUS MATERIALS

Sec. 34-56 Definitions.

Costs incurred by the Fire Department, Police Department, Health Department, Public Works, and/or any other department and/or agency of Frisco shall include, but not be limited to expenses attributable to the abatement or clean up of any hazardous material(s) incident, including costs to personnel, cost of equipment operation, cost of materials and supplies, costs of specialists, experts, or other contract labor not in the full time employment of Frisco, disposal costs, overhead costs, overtime costs, and any other incidental cost incurred by Frisco. Basic costs associated with the Fire Department services shall be as outlined in the tables below.

Pertaining to incidents within the jurisdiction of the Frisco: for the first hour of an incident, measured from the time that the first Fire Department vehicle arrives at the incident site, only the costs of materials, supplies, disposal, and specialists/experts not in the full time employment of Frisco shall be billable.

Beginning one hour after the first Fire Department vehicle arrives at the incident scene, all costs described in this article shall be billable.

Pertaining to incidents outside of the jurisdiction of Frisco, beginning at the time the first Fire Department vehicle checks in route to the incident scene, all costs described in this article shall be billable.

EQUIPMENT					
Code		Heavy		Rate	Unit
AUTO - 1001		Mule		\$230.00	day
AUTO - 1002		Mule Trailer		\$180.00	day
AUTO - 1003		Backhoe (Public Works)		\$330.00	day
AUTO - 1006		Special Operations - HazMat Response Unit (HM 601)		\$500.00	hour
AUTO - 1007		HazMat Resource Vehicle (U707 Dual)		\$100.00	hour
AUTO - 1011		Trailer, Equipment Hauler 20'		\$100.00	day
AUTO - 1014		Special Operations - Interoperability Communications Vehicle (CCOM 601)		\$500.00	hour
AUTO - 1015		Fire Engine		\$480.00	hour
AUTO - 1016		Aerial Ladder Truck		\$480.00	hour
AUTO - 1017		Mobile Intensive Care Unit		\$240.00	hour
AUTO - 1018		Chief Officer Vehicle		\$240.00	hour
AUTO - 1019		Special Operations - Heavy Rescue		\$500.00	hour
Code		Pumps		Rate	Unit
PMP - 1006		Pump, ¾" Transfer		\$75.00	day
PMP - 1008		Hose, Chemical, 20 ft Section (Hydrocarbon)		\$100.00	day
Code		Sampling / Diagnostic		Rate	Unit
DIA - 1001		pH Analysis (Roll, Box)		\$25.00	roll
DIA - 1002		Chemical Classifier, Spylfyer, Tube of 15		\$35.00	tube
DIA - 1006		Drager, CDS Colorimetric System, w/ Tubes		\$250.00	day
DIA - 1008		Smiths Detection, HazMat ID, (Solids, Liquids, Pastes)		\$500.00	day
DIA - 1009		Smiths Detection, Gas ID, (Gas, Vapors, Aerosols)		\$500.00	day

DIA - 1010		Smiths Detection, Responder RCI (Raman Spectral)		\$300.00	day
DIA - 1011		Smiths Detection, HGVI		\$1,500.00	day
DIA - 1012		Smiths Detection APD 2000 (Chem TICs, Irritants)		\$200.00	day
DIA - 1017		RAE Systems, Multi-Rae		\$100.00	day
DIA - 1018		RAE Systems, Isotope Identifier		\$150.00	day
DIA - 1019		RAE Systems, Q-Rae Plus or Toxi-Rae or 4-Gas		\$150.00	day
DIA - 1020		RAE Systems, Gamma Rae Dosimeter / Detector		\$100.00	day
Code		HazMat Equipment		Rate	Unit
HMT - 1001		Chlorine Emergency "A" Kit		\$500.00	day
HMT - 1002		Chlorine Emergency "B" Kit		\$750.00	day
HMT - 1003		Chlorine Emergency "C" Kit		\$1,000.00	day
HMT - 1004		Transfer Equipment		\$500.00	day
HMT - 1006		Cargo Lights		\$25.00	day
HMT - 1007		Chain Saw		\$80.00	day
HMT - 1010		Drum Dolly		\$30.00	day
HMT - 1014		Generator, 10 kw		\$100.00	day
HMT - 1015		Pressure Washer, 3,000 psi or less		\$275.00	day
HMT - 1016		Saw, Air Powered Cut Off Wheel		\$80.00	day
HMT - 1017		Saw, Portable		\$80.00	day

PERSONNEL					
Code				Rate	Unit
PER - 1007		Operator, Heavy Equipment (Public Works)		\$45.00	hour
PER - 1013		IT/Communications Specialist (IT Department)		\$60.00	hour
PER - 1018		Engineer (Engineering Department)		\$75.00	hour
		Other Specialist/Experts (Professional)		cost	hour
		COMMUNICATIONS CCOM 601			

Code				Rate	Unit
COM - 1001		Communication Service Fees (Data, Voice, Other)		Cost	unit

PERSONAL PROTECTIVE EQUIPMENT					
Code		Suits		Rate	Unit
PPE - 1001		Bunker Gear (Pants, Coat, Gloves, Helmet, Boots)		cost	each
PPE - 1003		Cool Vest		\$55.00	each
PPE - 1005		Coveralls, Tyvek / Saranex Stitched Seam		\$10.00	each
PPE - 1008		Level A, Responder, Tychem 10K, Kappler Z500		\$795.00	each
PPE - 1009		Level A, St. Gobain "One Suit"		\$1,125.0 0	each
PPE - 1010		Level B, Fully Encapsulated (CPF 4)		\$240.00	each
PPE - 1012		Level B, MT-94 CBRNE / Utility Recon Suit		\$195.00	each
PPE - 1014		Level C, Hood, Boot (CPF 1)		\$25.00	each
PPE - 1017		Full Body Harnesses, Fall Protection		\$200.00	each
Code		Boots		Rate	Unit
PPE - 2003		Chemical Vapor Boot		\$25.00	pair
Code		Gloves		Rate	Unit
PPE - 3001		Latex, Sample / Exam		\$1.10	pair
PPE - 3004		Nitrile 14"		\$6.50	pair
PPE - 3005		Butyl Rubber 11"		\$53.00	pair
Code		Respiratory Protection		Rate	Unit
PPE - 4001		Breathing Air Compressor		\$500.00	day
PPE - 4002		Breathing Air Hose, 50' Section		\$20.00	day
PPE - 4003		Self-Contained Breathing Apparatus (SCBA)		\$200.00	day

PPE - 4004		Self-Contained Breathing Apparatus (SCBA) Cylinder		\$15.00	day
PPE - 4012		Cylinder Refill System, On-Site (LAR 601)		\$500.00	day
		MATERIALS			
Code		Remediation Products		Rate	Unit
SOR - 1005		SPC Sorbent Pads 17x19 (200 bale)		\$80.00	each
SOR - 1013		Absorbent, Clay Based 50 lb.		\$8.00	each
SOR - 1019		AFFF-AR Alcohol Resistant Suppression Foam (5 gal)		\$210.00	each
SOR - 1023		Degreaser (Mixed Solution)		\$3.00	gallon
SOR - 1024		Soda Ash, 50 lb. Bag		\$35.00	each
Code		Containers		Rate	Unit
CON - 1009		Drum, Poly, 55 gal, T/H, w/ Bungs		\$60.00	each
CON - 1010		Drum, Poly, Overpack, 95 gal		\$225.00	each
CON - 1013		Drum, Steel, 55 gal, OH, R/C, T/H		\$60.00	each
Code		Miscellaneous Tools		Rate	Unit
MIS - 1002		Non Sparking tools		\$25.00	day
MIS - 1003		Hand Tools, (Shovel, Push Broom, Rake, Scraper, etc.)		\$10.00	day
MIS - 1004		Small Hand Tools, (Duck Bill Metal Clamp, Wrench, etc.)		\$10.00	each
MIS - 1006		Polyethylene / Visquine Sheeting (20' x 100' roll) 6 mil		\$100.00	each
MIS - 1007		Putty, Repair (Plug & Dike)		\$7.50	each
MIS - 1010		Pump Sprayer		\$15.00	day
MIS - 1011		Proportioner		\$25.00	day
MIS - 1013		Rope, Cotton 1/4" x 100 ft		\$20.00	each
MIS - 1014		Rope, Polypropylene, 1/2" x 600 ft		\$80.00	each
MIS - 1017		Epoxy Stick, Sealant (JB Weld)		\$14.50	each
MIS - 1019		5/8" Water Hose, 50 ft		\$20.00	each
MIS - 1020		Forestry Hose, Lightweight Jacket, 100 ft		\$65.00	each
MIS - 1021		Decontamination Basin – RMC		\$125.00	each
MIS - 1023		Decontamination Shower – Single		\$500.00	day
MIS - 1024		Decontamination Shower - Multi Stage		\$1,500.00	day
MIS - 1025		Submersible Pump, 1/6 hp		\$20.00	day

MIS - 1026	Electric Tent Inflator, 1/3 hp	\$10.00	day
MIS - 1027	Rotary Drain Pump w/ Drip Pan	\$110.00	each
MIS - 1032	Utility Scrub Brush, Long Handle	\$13.00	each
MIS - 1035	Pre & Post Decon Kit – Civilian	\$50.00	each
MIS - 1038	Flashlight	\$10.00	day

Additional Regulations Relating to the Above Cost Tables:

1. Stand-By Rates will be equal to the daily rates in the tables unless otherwise agreed to in writing on a case-by-case basis.
2. The usage period begins when an item of equipment is first made available for use on the hazardous material(s) work site and continues until such equipment is returned to the apparatus for use on other incidents or is returned to the responsible party for disposal or replacement.
3. The rates set forth in the tables above apply to equipment utilized by the Frisco Fire Department Hazardous Material(s) Team in the performance of public safety and mitigation during an incident.
4. During the course of performance of work, the Frisco Fire Department Hazardous Material(s) Team may, in its sole discretion, add additional equipment items to the tables above at rates to be determined by the Frisco Purchasing Department.
5. Due to the nature of hazardous chemical mitigation, it may be necessary to dispose of equipment and/or protective clothing due to corrosion or wear. If necessary, the rates set forth above will be charged plus replacement, at cost.
6. In the event any item of equipment is damaged at the incident site, the Frisco Fire Department Hazardous Material(s) Team shall be entitled, at its option, in lieu of rental, to charge the replacement or repair cost of such item of equipment. Repair or replacement cost will be billed at cost.
7. Decontamination charges will be charged according to the applicable rates identified in tables above.
8. Rebuild fees will be charged when the pump is damaged during operation on site. Repair parts and labor may be charged in lieu of rebuild fees when minor damage occurs.
9. The compensation paid for all laboratory services, testing services, and/or other services which are not performed by Frisco Fire Department personnel; but, rather, are subcontracted by the Frisco Fire Department, shall be charged at cost for such subcontracted service.
10. Minimum protective equipment will include, but not be limited to, hard hats, safety goggles, safety shields, steel toe boots and standard Frisco Fire Department uniforms. Additional charges for these items may be invoiced when these standard

minimum protective equipment items are damaged, broken or when they must be replaced due to contamination or damage.

11. In the event any Frisco Fire Department personnel is engaged to provide expert testimony in any court or administrative proceeding the rate for such personnel while testifying, either at a deposition or inquiry hearing shall be two (2) times the hourly rate of said personnel.
12. The information contained in the above tables is intended for the use of the corporation, entity, or individual to which presented.

Hazardous Material(s) - any substances or materials in a quantity or form which, in the determination of the Fire Chief, or his authorized representative, poses a risk to persons, property, or the environment, and shall include, but not be limited to, such substances as explosives, radioactive materials, petroleum products, poisons, compressed or liquefied gases, etiologic (biologic) agents, oxidizers, corrosives, carcinogens, cryogens, and organic peroxides.

Hazardous Material(s) Incident - the release, or potential release of a hazardous material from its container into the environment.

Sec. 34-57 Scope/purpose.

Any individual or business entity, who owns or possesses hazardous material(s) involved in a hazardous material(s) incident whether within or outside of Frisco, or any individual or business entity, who accidentally, negligently, or intentionally causes or is responsible for a hazardous material(s) incident within or outside of Frisco, shall be liable for the payment of costs incurred by the Fire Department, Police Department, Health Department, Public Works Department, and/or any other department and/or agency of Frisco which assist and/or participate, in any way, in the abatement of such an incident. The Frisco Fire Department shall, in its sole discretion, be responsible for determining whether it and/or any other department and/or agency of Frisco is needed to assist and/or participate, in any way, in the abatement of any hazardous material(s) incident for which the costs provided for herein may be assessed. The remedy provided by this Section shall be in addition to any other remedies provided at law or in equity.

Sec. 34-58 Hazardous material(s) permits.

Permits will be required for the storage, handling, or use of hazardous material(s) in excess of the amounts stipulated in Section 105 of the 2006 International Fire Code, as it exists or may be amended (Ordinance No. 08-04-39). The fee for hazardous material(s) permits shall be One Hundred

Dollars (\$100.00) per year, per site. Applications for hazardous material(s) permits shall be submitted to the Frisco Fire Department.

Sec. 34-59 Authorizing suits for injunctive relief.

Notwithstanding any penal provision of this article, the City Attorney is authorized to file suit on behalf of Frisco, the Fire Chief, or his authorized representative, both for injunctive relief as may be necessary to enforce the provisions of this article and for the collection of damages as provided herein.

Sec. 34-60 Penalty provision.

Any person, firm, corporation or business entity violating this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not to exceed the sum of TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day's violation under this article shall constitute a separate offense. The penal provisions imposed under this article shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law."

SECTION 3: Savings/Repealing Clause. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4: Severability. Should any section, subsection, clause or phrase of this Ordinance be declared unconstitutional or invalid by any court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full for force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clauses and phrases be declared unconstitutional or invalid.

SECTION 5: Effective Date. This Ordinance shall become effective upon its passage and publication as required by the City Charter and by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
FRISCO, TEXAS**, on this _____ day of _____, 2010.

MAHER MASO, Mayor

**ATTESTED TO AND
CORRECTLY RECORDED BY:**

APPROVED AS TO FORM:

JENNY PAGE, City Secretary

Abernathy, Roeder, Boyd & Joplin, P.C.
City Attorneys
REBECCA BREWER

Date(s) of Publication _____, in the *Frisco Enterprise*